

EXHIBIT A



November 15, 2018

VIA Electronic Delivery

Chief FOIA Officer
U.S. Agency for Global Media
Room 3349
330 Independence Avenue, SW
Washington, DC 20237
Fax No.: (202) 203-4585

Re: Freedom of Information Act Records Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552 *et seq.*, and the U.S. Agency for Global Media ("USAGM")¹ FOIA regulations, beginning at 22 C.F.R. Part 503, Democracy Forward Foundation submits this request for records.

Background

In May 2018, Radio and Television Martí—the primary outlet of the Office of Cuba Broadcasting, which is itself a component of USAGM—released a 15-minute video segment on George Soros (the "Soros Segment").² The Soros Segment, which has been decried as an act of anti-Semitism, described Mr. Soros as, among other things, "the multimillionaire Jew of Hungarian origin" and as a "non-practicing Jewish financial speculator of flexible morals."³ Further, and in support of its claim that Mr. Soros intends to use his wealth to undermine democracies, Radio and Television Martí cited only the work of Judicial Watch in the Soros

¹ Prior to an August 2018 rebranding, the USAGM was known as the Board of Broadcasting Governors or BBG. See Press Release, *U.S. Government Media Agency Rebrands: Statement from CEO John F. Lansing* (Aug. 22, 2018), <https://www.prnewswire.com/news-releases/us-government-media-agency-rebrands-300701142.html>. Nevertheless, USAGM is still referred to by its previous name in certain official records. See, e.g., 22 C.F.R. Part 503. Accordingly, and for purposes of this request, please construe the terms "U.S. Agency for Global Media" and "USAGM" to also include the terms "Board of Broadcasting Governors" and "BBG" where it is reasonable and sensible to do so.

² Colin Dwyer, *U.S. Agency Investigates 'Taxpayer-Funded Anti-Semitism' Against George Soros*, NPR (Oct. 30, 2018), <https://www.npr.org/2018/10/30/662052937/u-s-agency-investigates-taxpayer-funded-anti-semitism-against-george-soros>.

³ *Id.*

Segment.⁴ Judicial Watch is a right-wing advocacy organization currently “raising funds through a campaign it calls ‘Expose Soros.’”⁵

The Soros Segment has taken on additional national salience after Mr. Soros was targeted in a spate of attempted package bombings, and in the wake of the mass shooting at the Tree of Life synagogue in Pittsburgh.⁶

Responding to public calls, John Lansing, the Chief Executive Officer and Director of USAGM, announced on October 29, 2018 that an investigation would be opened to determine who was responsible for the offensive content.⁷ The purported end goal of this inquiry appears to be ensuring that “USAGM networks’ content . . . adhere[s] to the highest standards of professional journalism.”⁸ Among other things, it remains unclear whether this investigation will also examine the standards used to assess source credibility to ensure only those sources meeting standards of professional journalism are utilized.

Also in response to media criticism, Office of Cuba Broadcasting Director Tomás P. Regalado stated that according to e-mails that were reviewed, producer Isabel Cuervo and news director Wilfredo Cancio were “the only two people who had anything to do with the report coming out on the air.”⁹ This statement indicates that USAGM has already compiled and reviewed the relevant records, and thus is in a position to produce them expeditiously.

Records Requested

In an effort to understand and explain to the public how the Soros Segment made it to air, and the steps being taken in response, Democracy Forward requests that USAGM produce the following within twenty (20) business days:

1. All records sent or received by Isabel Cuervo, Wilfredo Cancio, Andre Mendes, Jeffrey Shapiro, or Tomás Regalado discussing George Soros or the Soros Segment, whether before or after it aired, and including, but not limited to, discussions of or reactions to media coverage of the Soros Segment, and the review that USAGM conducted following these reports.
2. All communications between (i) Radio and Television Martí, the Office of Cuba Broadcasting, or USAGM and (ii) anyone affiliated with Judicial Watch, including, but

⁴ *Id.*

⁵ See Michael Kranish, *Explosive Device Targets George Soros Amid Escalating Political Attacks Against Billionaire Hedge Fund Founder*, Wash. Post (Oct. 24, 2018), https://www.washingtonpost.com/politics/explosive-device-targets-george-soros-amid-escalating-political-attacks-against-billionaire-hedge-fund-founder/2018/10/24/7d387982-d79b-11e8-aeb7-ddcad4a0a54e_story.html?utm_term=.0e19d00a962a.

⁶ *Id.*

⁷ See U.S. Agency for Global Media, CEO Statement on Office of Cuba Broadcasting piece on George Soros (Oct. 29, 2018), <https://www.usagm.gov/2018/10/29/ceo-statement-on-office-of-cuba-broadcasting-piece-on-george-soros/>.

⁸ *Id.*

⁹ See Nora Gámez Torres, Sarah Blaskey, and Mario J. Pentón, Miami Herald, *TV Marti Under Scrutiny Following Controversial Report and Two Employee Suspensions*, <https://www.miamiherald.com/news/nation-world/world/americas/cuba/article220915645.html>.

not limited to, all communications with individuals writing from an e-mail address ending with “@judicialwatch.org.”

3. All communications between (i) Radio and Television Martí, the Office of Cuba Broadcasting, or USAGM and (ii) Lia Fowler.
4. All communications between (i) Radio and Television Martí, the Office of Cuba Broadcasting, or USAGM and (ii) Wayne Madsen.
5. All records containing implementing guidance or other instructions relating to the prohibition on USAGM funds being used to influence public opinion in the United States.¹⁰

In completing this search, please search for records created between January 1, 2018 and the date on which the search is completed.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep’t of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

¹⁰ *See, e.g., 2017 Consolidated Appropriations Act*, §§ 715, 754.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Request for Fee Waiver

Democracy Forward requests a waiver of document search, review, and duplication fees because the disclosure of the requested records is in the public interest and because disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). Democracy Forward also requests a waiver of search fees on the ground that it qualifies as a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

The disclosure of requested records is “likely to contribute significantly to public understanding of the operations or activities of the government” because, as discussed above, news accounts underscore the substantial public interest in the records sought through this request. 5 U.S.C. § 552(a)(4)(A)(iii). Given the ongoing and widespread media attention, the records sought will contribute significantly to public understanding of an issue of profound public importance. Moreover, Democracy Forward is a nonprofit organization organized under Internal Revenue Code § 501(c)(3) and is dedicated to promoting policy engagement and civic education. As a nonprofit organization, it does not have a commercial interest in the records. The records obtained from this request will be made available to the public at no cost.

Democracy Forward also requests a waiver of search fees because it is a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). Democracy Forward meets the definition of “representative[s] of the news media” because it gathers information, exercises editorial discretion in selecting and organizing documents, and “distributes the resulting work to the public.” *Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). It is therefore a “representative of the news media” for the same reasons it is “primarily engaged in disseminating information.” 5 U.S.C. §§ 552(a)(4)(A)(ii)(II), 552(a)(6)(E)(v)(II).

If the request for a waiver is denied, we are willing to pay all reasonable fees incurred for searching and duplicating records in responding to this request, up to \$100. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Nitin Shah as soon as possible at foia@democracyforward.org or (202) 448-9090.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

/s/ Nitin Shah

Nitin Shah

Senior Counsel, Democracy Forward Foundation

Counsel for Democracy Forward Foundation